European Banking Authority

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Consultation Paper

Draft Guidelines on ADC exposures to residential property under Article 126a of Regulation (EU) 575/2013

eba European Banking Authority

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Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in "5.2 Overview of questions for consultation".

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 19.08.2024. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

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Executive Summary

The EU implementation of the Basel III framework introduces in Article 4(1), point 79, of the Regulation (EU) 575/2013 (CRR) a new definition for a subset of exposures covering exposures related to Acquisition, Development, and Construction (ADC), which relate to exposures to corporates or special purpose entities (SPVs) financing any land acquisition for development and construction purposes, or financing development and construction of any residential or commercial immovable property. These ADC exposures are considered to be associated with heightened risk and consequently a specific risk weight of 150% is set out in Article 126a of the CRR. Notwithstanding institutions may apply a risk weight of 100% to ADC exposures to residential property provided that certain risk-mitigating conditions are met.

The EBA is in this regard mandated under Article 126a(3) of the CRR to specify the following terms identifying the credit risk-mitigating conditions listed under paragraph 2 of the same article related to the following elements:

a) Substantial cash deposits;

b) Financing ensured in an equivalent manner;

c) Appropriate amount of obligor-contributed equity;

d) Significant portion of total contracts.

With respect to the definition of the substantial cash deposit, two separate threshold levels have been established for, on the one hand, pre-sale contracts (i.e., not lower than 10% of the sale price) and, on the other hand, for pre-lease contracts (i.e., not lower than 3 times the monthly rent) to assign the 100% risk weight.

With respect to the term “financing ensured in an equivalent manner”, the CP specifies that equivalents to the cash deposit are to be exclusively considered as instalments paid and cash held in a segregated account, both subject to forfeiture if the contract is terminated.

Regarding the appropriate amount of obligor-contributed equity, the CP defines a closed list of 5 elements that can be considered as forms of equity. The CP requires for the ratio not to be below 35%, in order to apply the risk weight of 100% to ADC exposures to residential property.

Finally, in order to determine whether the portion of total contracts is significant, the CP introduces two separate ratios for pre-sale/sale and pre-lease/lease contracts, proposing a 50% for both thresholds:

- pre-sale/sale - Credit facility based: (sum of the sales price of the 'eligible' [1] contracts signed) over (credit facility including the drawn amount and undrawn amount, granted to the borrower to finance the ADC project)

- pre-lease/lease - Simple number: (Number of 'eligible' contracts signed) over the total number of potential contracts.

By carrying out this mandate, the EBA is required to take into account the specificities of institutions' lending to public housing or not-for profit entities across the Union that are regulated by law and that exist to serve social purposes and to offer tenants long-term housing. In this regard, a specific framework has been defined in the CP, which in any case is optional compared to the general one at the discretion of credit-granting institutions. This framework includes three modifications compared to the general requirements: first, the cash deposit threshold for pre-lease contracts is reduced from 300% to 100% of the monthly rent, second, the penalty clauses are assimilated to cash deposit, and the ratio for the "significant portion of total contracts" is increased from 50% to 75%.

Accordingly, these guidelines provide a harmonized framework at European level for the treatment of these exposures, ensuring comparability of own funds requirements and ultimately achieving a level playing field across the EU.

Next steps

The draft guidelines are published for the 3 months consultation period. At the same time the EBA is planning to carry out a QIS in order to assess the impact of the proposed requirements both in quantitative and qualitative manner. The responses received during the consultation period and the results of the QIS will be taken into account when specifying the final guidelines.

[1] 'eligible' contracts refer to pre-lease and/or pre-sale contracts with a substantial cash deposit subject to forfeiture and/or sale and/or lease contracts.

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Background and rationale

Article 126a of the CRR introduces under the standardised approach for credit risk a new category of exposures called ADC exposures within the class of exposures secured by mortgages on immovable property. These exposures are associated with heightened risk and therefore attract a risk-weight of 150%. Institutions may however apply a risk weight of 100% to ADC exposures to residential property when, besides engaging in sound originating and monitoring standards, certain conditions reducing the credit risk of the exposure are met. More specifically, these conditions are listed in Article 126a(2) of the CRR, which refer to a significant proportion of total contracts must be pre-sale and pre-lease contracts with substantial cash deposit or sale and lease contracts (or where the financing is ensured in an equivalent manner) and/or an appropriate amount of obligor-contributed equity to the residential property value upon completion.

These guidelines specify the terms under Article 126a of the CRR related to the credit risk reducing conditions that must be met to apply the 100% risk weight for ADC exposures to residential property. In line with the mandate, these guidelines also take into account the specificities of institutions' lending to public housing or not-for profit entities across the Union that are regulated by national law and that exist to serve social purposes and to offer tenants long-term housing.

1.1 Substantial Cash Deposit

One of the credit risk-reducing factors mentioned in Article 126a(2)(a) of the CRR is that of legally binding pre-sale or pre-lease contracts for which the purchaser or tenant has made a substantial cash deposit, which is subject to forfeiture if the contract is terminated. These guidelines aim to define the level at which the cash deposit is considered substantial. The cash deposit should be substantial enough to serve as an incentive for the purchaser or tenant to convert the pre-sale and pre-lease contracts into sale and lease contracts, thereby effectively reducing the risk of the default of the obligor of the ADC exposure, or should at least be sufficient for compensating a market price deterioration in case the pre-sale or pre-lease contract is not converted but terminated, so that the property cannot be sold or rented out at the originally expected price by the obligor.

Explanatory text for consultation purposes

In addition to the condition of considering only pre-sale and pre-lease contracts for which the purchaser or tenant has made a substantial cash deposit which is subject to forfeiture if the contract is terminated, the CRR also further clarifies that the contracts to be considered should be legally binding. The determination of whether the pre-sale contracts or pre-lease contracts can be considered as legally binding is a case-by-case analysis. While the specification of the exact characteristics of these contracts is beyond the scope of these guidelines, it is nevertheless

expected, unless demonstrated otherwise, that the contracts have at least the following elements:

- "Pre-sale contracts" are concluded in writing, and specify the latest point in time for signing the sale contract and the sale price. They are expected to include any conditions under which the prospective buyer may still terminate the pre-sale contract instead of proceeding with signing the sale contract unless such right of the buyer cannot be excluded by force of law;

- "Pre-lease contracts" are concluded in writing, and specify the latest point in time for signing the lease contract and the rent. They are expected to include any conditions under which the prospective tenant may still terminate the pre-lease contract instead of proceeding with signing the lease contract unless such right of the tenant cannot be excluded by force of law.

These elements are seen as necessary in order to ensure the adequacy of the cash deposit requirements specified in the guidelines with the risk related to the contracts. In particular, specifying the final signing date of the contract and the sale/lease price is considered crucial, as (1) the formulas for cash deposits do not work when the denominator is not determined, and (2) due to the high uncertainty regarding what property value might still be left when the contract is terminated or the steeper deterioration if the risk is not limited to a drop of property value below a fixed sale price but below current market value.

Q1: What is the materiality of the pre-sale and pre-lease contracts that would not have the expected characteristics of legally binding contract?

1.2 Financing ensured in an equivalent manner

Article 126a(2)(a) of the CRR further requires considering alternative possibility to the requirement of a substantial cash deposit by considering cases "*where the financing is ensured in an equivalent manner*". The relationship of equivalence to the requirement for a "*substantial cash deposit*" is understood in these Guidelines as covering two points: (1) the obligor of the ADC exposure receives a specific amount of cash, and (2) the buyer or tenant forfeits this amount if the pre-sale/pre-lease contract is terminated. In this regard, in order to preserve the equivalence to the cash deposit from a risk perspective, instalments paid and cash held in a segregated account, both subject to forfeiture if the contract is terminated, are considered as ensuring the financing in an equivalent manner compared to a cash deposit.

1.3 Significant portion of total contracts

Finally, Article 126a(2)(a) of the CRR specifies that legally binding pre-sale or pre-lease contracts with a substantial cash deposit or where the financing is ensured in an equivalent manner, or legally

binding sale or lease contracts, amount to a significant portion of total contracts. Therefore, while a substantial cash deposit or the financing ensured in an equivalent manner apply to each individual contract (meaning they must be satisfied to qualify pre-sale and pre-lease contracts in the computation of the significant portion of total contracts), the significant portion of total contracts is the ultimate condition that must be met for the allocation of the 100% risk weight. This condition is meant to mitigate the risk of the absence or scarcity of marketability of the ADC project (i.e. the source of repayment for the obligor of the ADC exposure), which can cause lower cash flows for repayment than projected (also depending on how long it takes to find a buyer or tenant, and the potential deterioration in market prices over this period) thereby reducing the risk borne by the financial institution granting the ADC exposure. Thus, only where the qualifying pre-sale or pre-lease contracts or sale or lease contracts already represent a significant portion of total contracts the assignment of a 100% risk weight instead of a 150% risk weight is justified from a risk perspective.

1.4 Appropriate amount of obligor-contributed equity

The second possibility to assign a 100% risk weight to an ADC exposure provided in Article 126a(2)(b) of the CRR is that the obligor has substantial equity at risk, which is represented as an appropriate amount of obligor-contributed equity to the residential property's value upon completion. An appropriate amount of obligor-contributed equity can mitigate the risk of the ADC exposure: covers potential unexpected losses in case of adverse market price movements until a buyer/tenant is found and the price is fixed by sale/lease contract. To this end, these guidelines specify that the equity identified for the purpose of assigning the 100% risk weight must specifically be invested into the particular ADC project financed by the related ADC exposure, which poses the risk to the institution. In terms of this, improvements to the property at own cost of the obligor on top of received financing, including preparatory works such as the laying of sewers, water pipes, and similar improvements to land, should be considered obligor-contributed equity falling under one of the categories defined in these guidelines, specifically either category c) or d) as defined in paragraph 19 of these Guidelines, based on whether they are "physical" or monetary contributions. Lastly, the property value upon completion referred to in Article 126a(2)(b) of the CRR shall be understood as the value determined in accordance with Article 229(1) of the CRR, that is expected for the point in time when the immovable property will be finished.

1.5 Lending to public housing or not-for profit entities

A certain acknowledgement of the engagement and functions of public housing and not-for profit entities that are regulated by law and that exist to serve social purposes and to offer tenants long-term housing is mentioned in the EBA mandate to specify the criteria for assigning a risk weight of 100% instead of 150%. A common characteristic concerning public housing projects and entities operating on a not-for-profit basis with the aim of providing affordable housing to the general public is that the demand generally exceeds the supply of housing units. For this reason, for the purpose of assigning a 100% risk weight, a specific framework is envisaged. This framework includes a lower requirement for the cash deposit as well as a broader interpretation of the term “financing

is ensured in an equivalent manner" in the case of a pre-lease contract while, at the same time, establishing a higher threshold for the significant portion of total contracts. In any case, the application of this specific framework for ADC exposures to public housing or not-for-profit entities is left to the discretion of the credit-granting institutions, which have the option to apply the general framework if deemed necessary from a risk perspective.

Draft Guidelines

In between the text of the draft Guidelines that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.

European Banking Authority

EBA/GL/2024/XX

DD Month YYYY

Draft Guidelines

on ADC exposures to residential property under Article 126a of Regulation (EU) 575/2013

1. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010[2]. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.

2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g., by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by [dd.mm.yyyy]. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/2024/xx'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.

4. Notifications will be published on the EBA website, in line with Article 16(3) of Regulation (EU) No 1093/2010.

[2] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

2. Subject matter, scope and definitions

Subject matter

5. These guidelines specify, in accordance with Article 126a(3) of Regulation (EU) 575/2013 (CRR), the terms "substantial cash deposits", “financing ensured in an equivalent manner”, “appropriate amount of obligor-contributed equity”, and "significant portion of total contracts", taking into account the specificities of institutions´ lending to public housing or not-for profit entities across the Union that are regulated by law and that exist to serve social purposes and to offer tenants long-term housing, for the purposes of Article 126a(2) of that Regulation.

Scope of application

6. These guidelines apply in accordance with the scope of application of Article 126a of the CRR.

Addressees

7. These guidelines are addressed to competent authorities as defined in Article 4, point (2)(i) of Regulation (EU) No 1093/2010 and to financial institutions as defined in Article 4, point (1) of Regulation No 1093/2010.

Definitions

8. Unless otherwise specified, terms used and defined in CRR have the same meaning in the guidelines.

3. Implementation

Date of application

9. These guidelines apply from dd.mm.yyyy.

4. Legally binding contracts

Substantial Cash Deposit

10. For the purposes of Article 126a(2), point (a), of the CRR, the cash deposit made for a legally binding pre-sale contract should be considered as substantial where the following ratio is equal to or higher than 10%:

$$\frac{CD}{SP}$$

Where:

- CD: is the cash deposit paid by the purchaser which is subject to forfeiture if the pre-sale contract is terminated;

- SP: is the sale price as indicated in the pre-sale contract.

Explanatory Text for consultation purposes

Structure of the ratio

For the sake of simplicity and ease of interpretation, it is proposed to adopt a single relative ratio, expressed as a percentage of the sale price, without caps or floors based on absolute amounts. The assumption behind this option is that the relationship between the significance of the cash deposit for the buyer, and its commitment to convert the pre-sale contract into a sale contract, can always be expressed as a function of the sale price, namely by applying a percentage to the sale price as specified in the contract.

EBA has also investigated the possibility to adopt an absolute cash deposit a long with the one determined based on a relative percentage. In this regard, two other possible options have been investigated: a) the minimum between a relative and an absolute threshold, b) the maximum between a relative and an absolute threshold.

The first option provides that satisfying the minimum of the two thresholds would be a sufficient condition. The underlying logic is that a real estate lot[3], which has a very high price, would lead to unreasonably high cash deposit requirement for the buyer. This high requirement would not be seen as necessary, as one could consider that the buyer does have 'sufficient skin in the game,' as long as the absolute value of the deposit is still of a significant amount (hence the introduction of a cap in the form of an absolute threshold). In terms of counterarguments, it could be argued

[3] Real estate lots refer to the apartments composing a building subject to the ADC project.

that the "unreasonable" nature of the cash deposit requirement purely based on an un-capped relative threshold is very relative. One could expect among other, that the buyer of a high value real estate has higher earnings than the buyer of a cheaper real estate; hence a high cash deposit requirement would not be an impediment for the buyer, and a capped amount could reduce the incentive to proceed with the sale contract.

The second option provides to set the requirement as the higher of the two thresholds, relative and absolute. This option is designed under the assumption that in the case of low-value properties, a deposit of 10% of the property's value would not be sufficient to assert that the buyer has 'sufficient skin in the game'. Hence, applying the maximum between the two thresholds would ensure that for small real estate investments, there is a minimum cash deposit expressed as an absolute limit. In cases where the sale price is such that the relative threshold is higher than the absolute threshold, this will ensure that a direct proportional relationship between the sale price and the cash deposit is maintained. In terms of counterarguments, a similar argumentation than for the previous point can be provided: it is unclear why the cash deposit requirement would be unreasonably low, as one could expect the buyer of a cheaper flat to have a lower purchasing power and hence be more impacted by the forfeiture of the cash deposit (even if small).

Additionally, the EBA has also assessed the possibility of having a threshold adjusted (lower than 10%) by banks based on empirical data for the relevant market, in order to consider scenarios where the cash deposit may not be enforceable due to legal or practical impediments, as long as it serves for compensating the obligor's risk of market price deterioration over the period until the latest point in time when the sale contract must have been signed. This option, while being more risk-sensitive, has been considered challenging to operationalise, especially considering that the Guidelines are within the scope of institutions adopting the standardised approach to calculate the capital requirement for credit risk. This option has also been considered as leading to potentially high heterogeneity of cash deposit requirements between institutions.

In light of the aforementioned considerations, it has been decided to adopt a single relative threshold. This choice is deemed the most suitable in this overall context due to its ease of interpretation, implementation, and effectiveness in establishing a linear relationship between the sale price and the significance of the cash deposit.

Q2: Do you agree with the approach proposed to specify the term "substantial cash deposit"?

Calibration of the threshold

The ratio set to qualify the pre-sale contract for inclusion in the calculation of the significant portion of total contracts for assigning the 100% risk weight (RW) is 10% of the sale price as indicated in the pre-sale contract. This threshold has been calibrated such that it exceeds the current market practices, because the 100% RW is a reduction of own funds requirements by one third compared to other ADC exposures, and should hence apply to ADC exposures with characteristics that are beyond average market practices.

When determining the level of the cash deposit requirement ratio, the EBA also examined the interaction between the level of the cash deposit necessary from a prudential perspective in order to ensure a satisfactory level of commitment from the prospective buyer to convert the pre-sale contract into a sale contract (thus reducing the obligor's risk) and certain national consumer protection laws, that impose limits on the maximum amount that can be requested by the seller (obligor). In some jurisdictions, in order to protect the buyer, the percentage of the cash deposit cannot exceed a certain percentage, which is lower than or equal to the 10% ratio mentioned in paragraph 10. Although these consumer protection practices were analysed, particularly those with lower than 10% allowable cash deposit, it is proposed to set the ratio level independently of them. The reason for this decision is that consumer protection law and the prudential framework serve different purposes, and would tend to go in opposite direction:

- the consumer protection law ensures no 'unreasonable' cash deposit requirements in relation to its level of certainty, hence the lower the buyer's or the seller's certainty, the lower the cash deposit requirement;
- the prudential framework should rather ensure a higher level of cash deposit to compensate for a lack of certainty from the buyer's side. The lower the buyer's certainty is, the higher the cash deposit requirement should be.

It is also noted that there is no contradiction *per se* between the two frameworks. In the case where the consumer protection laws offer a high level of protection by limiting the amount of cash deposit requirement, this is naturally translated, all other things being equal, into a higher risk from the obligor's perspective, and should therefore be associated with a higher RW on the exposure.

Q3: Do you consider the 10% ratio to be appropriate for the determination of the ADC exposures benefitting from the lower risk weight?

Q4: Do you have any concerns with applying a single ratio to all ADC projects? Are there any practical options the EBA should consider setting the ratio in a more granular way (e.g., threshold subject to case-by-case adjustments for either insufficient incentives or for non-enforceability of sufficient incentives but floored at potential market price deterioration over the relevant period) keeping in mind the simplicity of the Standardised Approach and the level playing field across institutions? If yes, please elaborate these options in detail.

11. For the purposes of Article 126a(2), point (a), of the CRR, the cash deposit made for a legally binding pre-lease contract should be considered as substantial where the following ratio is equal to or higher than 300%:

$$\frac{CD}{MR}$$

Where:

- CD: is the cash deposit paid by the tenant which is subject to forfeiture if the pre-lease contract is terminated;
- MR: is the monthly rent as indicated in the pre-lease contract.

Explanatory Text for consultation purposes:

Calculation method of the ratio for the purpose of Paragraph 11

In line with the current market practices, it is proposed to use the cash deposit actually paid by the tenant in the numerator and the monthly lease/rent at the denominator.

An alternative option was considered to use the net present value of total payments as stipulated by the contract in the denominator. This option requires that the contract's maturity is fixed or that in case the maturity is not fixed (or fixed but with opt out clauses on earlier dates), to use a minimum duration, as well as a clarification on the discount rate to be used for the calculation of the net present value of the total payments. This complexity of the approach was not overcome by clear benefits in terms of risk sensitivity.

In the end, the use of the monthly lease/rent at the denominator was preferred as it has the advantage of aligning with the business practice where the tenant typically shall provide a deposit proportionate to the monthly rent.

Application of the ratio

Similar to what was done for the cash deposit in pre-sale contracts, it has been decided to apply a single relative threshold (300%) to the monthly rent for the purpose of ensuring that the cash deposit is substantial. Furthermore, similarly, the possibilities of introducing a cash deposit expressed in absolute terms were explored, leading to the same conclusions as those reached in the Explanatory Box dedicated to the cash deposit requirement for pre-sale contracts.

Calibration of the threshold

The ratio set to qualify the pre-lease contract for inclusion in the calculation of the significant portion of total contracts for assigning the 100% risk weight is three times the monthly rent, i.e.,

300%. This threshold has been calibrated such that it exceeds the current market practices, in order to justify the significant lowering of the own funds requirements.

Q5: Do you see any drawbacks in adopting the selected option? In case you prefer the alternative option, could you provide the rationale and an example of the calculation and estimation of the net present value of total payments?

Q6: Are there any other practices that should be considered by the EBA?

Q7: Do you have any concerns with applying a single threshold to all ADC projects? Are there any practical options the EBA should consider setting the threshold in a more granular way, keeping in mind the simplicity of the Standardised Approach and the level playing field across institutions? If yes, please elaborate these options in detail.

Q8: Is the relation between the “substantial” cash deposit required for a pre-sale contract and the “substantial” cash deposit required for a pre-lease contract appropriate from your perspective? If, not, please explain why and how this relationship should be adjusted.

Financing ensured in an equivalent manner

12. For the purposes of Article 126a(2), point (a), of the CRR, the financing should be considered as ensured in a manner equivalent to cash deposits subject to forfeiture where all the following conditions are met:

    a. the purchaser or tenant paid instalments, or transferred cash to a segregated account;

    b. the instalments or segregated cash referred to in point (a) are subject to forfeiture if the pre-sale or pre-lease contract is terminated;

    c. the amounts of instalments or segregated cash referred to in point (a) are substantial in accordance with the ratios referred to in paragraphs 10 and 11 of these Guidelines, for pre-sale contracts and pre-lease contracts, respectively.

Explanatory Text for consultation purposes

The interpretation adopted for the term “financing ensured in an equivalent manner” is one of strict equivalence with the cash deposit. Only instalments already paid or cash held in a segregated account and subject to forfeiture if the contract is terminated are allowed as alternatives to the cash deposit. Other options of less strict equivalence were also explored, including medium equivalence, broader equivalence, and guarantees.

A medium equivalence would be to relax the requirement on the “cash” aspect. In practice, this means also accepting collateral that would be deemed to be similar to cash, for instance, by

requiring that the collateral meets the eligibility requirements for credit risk mitigation according to Chapter 4 of Title II of Part Three of the CRR.

A broader equivalence would be possible in case the requirement on the "deposit" aspect is relaxed. In practice, this means that no cash deposit is paid at the moment of the signature of the contract, but a fee has to be paid in case of withdrawal.

The last equivalence that was explored was in terms of guarantees. In any case, in order to preserve the incentive mechanism of the cash deposit requirement also in this case, it should be ensured that the money paid by the guarantor would then be subsequently reclaimed (by the guarantor) to the buyer or tenant.

These alternative options were considered to introduce alternative instruments to the cash deposit with a higher level of risk. The preferred option of strict equivalence is meant to ensure that only instruments with a risk equivalent to that of the cash deposit are admitted.

Q9: Do you agree with the approach of strict equivalence with respect to cash deposit proposed? Do you deem other forms equivalent to the cash deposit from a risk perspective? If yes, please explain.

Significant portion of total contracts

13. For the purpose of Article 126a(2)(a) of the CRR, the legally binding pre-sale and sale contracts and the legally binding pre-lease and lease contracts should be considered as amounting to a significant portion of total contracts where they represent a percentage equal to or higher than 50% of total contracts. That percentage should be calculated in accordance with paragraphs 14 to 16 of these Guidelines.

14. For pre-sale and sale contracts, the percentage referred to in paragraph 13 should be calculated as follows:

    a. In the numerator, the sum of the sale prices as specified in the following contracts related to the residential property:

        i. the legally binding pre-sale contracts with substantial cash deposit or financing ensured in an equivalent manner in accordance with paragraphs 10 and 12 of these Guidelines;

        and

        ii. the legally binding sale contracts;

    b. In the denominator, the total amount of the credit facility, including the drawn amount and undrawn amount, granted by the institution to the obligor to finance the ADC project related to the residential property.

15. In the event that the ADC project related to the residential property is financed through a syndicated loan or multiple loans, the institution should consider in the denominator under paragraph 14.b the sum of all loans and credit facilities provided by all institutions to finance the ADC project.

16. For pre-lease and lease contracts, the percentage referred to in paragraph 13 should be calculated as follows:

    a. In the numerator, the sum of:

        i. the number of legally binding pre-lease contracts with substantial cash deposit or financing ensured in an equivalent manner in accordance with paragraphs 11 and 12 of these Guidelines;

        and

        ii. the number of legally binding lease contracts;

    b. In the denominator, the total number of units that are part of the ADC project related to the residential property.

Explanatory Text for consultation purposes

In order to define the significant portion of total contracts, the following 4 options were explored:

1. **Option 1 – credit facility based**: ratio between

    a. the sales price of the contracts signed;

    b. the credit facility including the drawn amount and undrawn amount, granted to the borrower to finance the ADC project.

2. **Option 2 – Weighted number**: ratio between

    a. the sales price of the contracts signed;

    b. the sales price of all the potential contracts.

3. **Option 3 – Simple number**: ratio between

    a. the number of contracts signed;

    b. the total number of potential contracts.

4. **Option 4 – combination**: a combination of option 2 and 3 (for instance, requiring both ratios to be met)

It has been proposed to adopt different requirements for pre-sale/sale contracts on the one hand and pre-lease/lease contracts on the other hand. For the significant portion of pre-sale and sale contracts, option 1 has been chosen, which ensures a more comprehensive assessment of risk. For the significant portion of pre-lease and lease contracts, option 3 has been chosen. This decision has been made because pre-lease/lease contracts naturally do not have a sales price. Additionally, this option is considered as being a good indicator for assessing the marketability of the project.

With respect to the 50% threshold level, it has been calibrated such that it exceeds the current market practices, in order to justify the significant lowering of the own funds requirements.

Q10: Do you agree in using two different options for pre-sale/sale and pre-lease/lease contracts?

Q11: Do you see any drawbacks related to the proposed options under paragraphs 14 to 16 of these Guidelines?

17. Where the intended use of the property is partly for sale and partly for lease, the institution shall calculate separate ratios, in accordance with paragraphs 14 and 15 for pre-sale and sale contracts and with paragraph 16 for pre-lease and lease contracts. The portion of total contracts should be deemed significant where each of the two ratios complies with the minimum ratio set out in paragraph 13 of these Guidelines.

Explanatory Text for consultation purposes

The EBA also considered the case of projects, where a mixed use of the property is foreseen by the obligor (i.e., the intended use of the property is partly for sale and partly for lease). The policy options analysed by the EBA for assessing whether for such projects eligible pre-sale/sale contracts and/or eligible pre-lease/lease contracts already satisfy the condition of a significant portion of total contracts are based on:

- an aggregation of pre-sale/sale contracts with pre-lease/lease contracts for the calculation of a single threshold, which is based on a number of assumptions to be taken, or
- where such an aggregation is not carried out, a conservative treatment of ADC projects with an intended mixed use of the property.

In detail, the following methods were considered:

a. **Method A – One Step approach**: This approach involves combining all different contract types for the calculation of a single threshold. Under this Method, only Option 3 (refer to the

previous explanatory box), which involves using simple numbers, can be applied. This approach is based on two strong assumptions: a) the sale and lease market are fungible, b) renting an apartment and selling an apartment have the same significance for the developer. While this approach has limitations, it offers clear advantages in terms of simplicity, ease of interpretability and implementation (no pre-assumption needed on which flat will be sold or leased).

b. **Method B1 – Two Step Approach**: In the first step, this approach calculates separate thresholds (one for pre-sale and sale contracts, and one for pre-lease and lease contracts), according to the options 1 to 4 mentioned in the previous explanatory box. In the second step, both thresholds must be satisfied to assign a 100% risk weight. This method can lead to conservative result in some cases, e.g. in the case of a project with many flats being on sale, and a single flat to be leased, the 100% risk weight cannot be applied as long as no interested tenant has been found for the one single flat to be leased.

c. **Method B2 – Two Step Approach**: The first step of this method is the same as B1. The second step involves aggregating the two thresholds through a simple weighted average based on the number of contracts. It should be noted that if Option 3 is used in the first step, this method is exactly equivalent to Method A. This method is however more complex to some extent.

In the end, method B1 has been chosen, to ensure a consistent treatment of ADC exposures with and without a mixed use of the property, also taking into account the limited materiality of cases with a strong prevalence of real estate units for sale compared to those intended for lease, and in any case, preferring to adopt a conservative approach. It is important to note that in case of mixed projects this approach leads to an extra conservativeness as the denominator of the ratio (i.e., the total amount of the credit facility or the total number of units that are part of the ADC project related to the residential property) does not distinguish the part relating to apartments to be sold and the part relating to apartments to be leased. Adjustments were also considered, such as on a pro-rata basis, but they were discarded to avoid overcomplicating the framework.

Q12: What is the materiality of ADC projects with mixed use foreseen? How are these projects structured and whether the proposed options raise any particular issues to be applied in practice?

Q13: Do you agree with the pros and cons on the different methods explained above? Are there any further issues that the EBA should consider?

Q14: Do you agree with the use of method B1 for the aggregation of pre-sale/sale contracts with pre-lease/lease contracts? Can method B1 be applied in practice using option 1 for pre-sale/sale contracts and option 3 for pre-lease/lease contracts? Is it possible to separately identify the amount of the ADC exposure used for financing housing units for sale or for lease?

Q15: Are there any other combinations of the options and methods considered by the EBA for aggregating pre-sale/sale contracts and/or pre-lease/lease contracts that are preferable?

Q16: Which alternative should be considered for assessing whether, for a project where a mixed use is foreseen, the eligible pre-sale/sale and pre-lease/lease contracts are a significant portion of total contracts?

5. Appropriate amount of obligor-contributed equity

18. The amount of obligor-contributed equity to the residential property value upon completion should be considered as appropriate for the purposes of Article 126a(2), point (b), of the CRR, where the ratio of the amount of the obligor-contributed equity to the residential property's value upon completion is equal to or higher than 35%.

19. For the purposes of paragraph 18 of these Guidelines, only those investments made by the obligor into the immovable property qualify as obligor contributed equity which, if any, convey for the obligor only a residual claim on the property, either in the form of own use of the property or via the cash flows generated by the sale or lease of the property, that is in particular subordinated to any claim the institution might have from the provided financing, and are investments in the form of one of the following or a combination thereof:

    a) Cash invested in the project and segregated from other assets of the obligor, available to cover the projected cost of the project, measured in the currency of the financing for the obligor and at the moment of the calculation of capital requirements;

    b) Subsidies and grants already invested to cover the incurred costs of the project or segregated from other assets of the obligor available to cover the projected cost of the project, measured in the currency of the financing for the obligor and at the moment of the calculation of capital requirements;

    c) Unencumbered readily marketable assets directly linked to the project and available to cover the projected cost of the project, should be measured in the currency of the financing for the obligor and valued at the market value of these assets at the time of calculating capital requirements. These assets should be easily sold or traded in the market. These assets should be contractually bound to be used for paying development or construction expenses linked to the project, and should be free from any legal claims, liens, or restrictions;

    d) Expenses for development or construction, paid out-of-pocket by the obligor in direct connection to the project, measured in the currency of the financing for the obligor and at the moment of the calculation of capital requirements;

    e) Land or improvements, paid out-of-pocket or already owned by the obligor, in direct connection to the project, measured in the currency of the financing for the obligor and at the market value at the moment of contribution of the obligor into the project.

Explanatory Text for consultation purposes

Definition of obligor-contributed equity

Paragraph 19 clarifies that the "eligible" equity contributed by the obligor should only provide a residual claim on the cash flows/use of the property, akin to how an equity exposure only conveys a residual claim on the assets or income of the issuer (compare with Article 133 of the CRR).

Q17: Do you foresee any practical impediments to include the verification that the developer only has a residual claim on the property in the underwriting standards? How could this "residual claim" feature be ensured in practice in your jurisdiction (e.g., SPV, pledge, mortgages, …)? Please provide reasoning, taking into account market practices and underwriting standards if you think that an adjustment of the EBA's definition of obligor contributed equity is necessary.

Determination of the level of equity at risk

The following 4 approaches have been explored to define the threshold for determining when the amount of obligor contributed equity can be considered appropriate:

a. Approach 1: $\frac{(Obligor - Contributed\ Equity)}{Property\ Value\ upon\ Completion}$. Under this approach, the obligor contributed equity is a direct observation, based on some 'accounting' figures.

b. Approach 2: $\frac{(Property\ Value\ upon\ Completion - Total\ Loans)}{Property\ Value\ upon\ Completion}$. Under this approach, the equity at risk is derived from the difference between residential property's value upon completion, and the total loans provided by the banks for the project.

c. Approach 3: $\frac{(Total\ Costs\ of\ the\ Project - Total\ Loans)}{Property\ Value\ upon\ Completion}$. Under this approach, the equity at risk is derived from the difference between the total estimated costs of the construction of the residential property, and the total loans provided by the banks for the project.

d. Approach 4: $\frac{(Obligor\ Contributed\ Equity)}{Property\ Value\ upon\ Completion}$. Under this approach, the obligor contributed equity is positively defined as per the list in paragraph 19 of these Guidelines.

Approach 1 avoids assumptions, facilitating a focused discussion on equity types. However, it poses challenges for developers with multiple projects, when these projects are not clearly segregated in specific SPVs (as the equity is fungible and therefore not allocated per projects).

Approach 2 is similar to approach 3, but *de facto* considers the expected profit from the project once it is sold as equity. This would hence not relate to a form of pre-cash payment engaged by

shareholders before the project starts.[4] It can also be noted that, even if the value used for the determination of the property value upon completion is a prudent one (in line with Article 229 (1) of the CRR), this is unlikely to remove the total expected profits from the project.

Approach 3 is trying to enhance approach 2, by removing the profits. It has however the draw-back that it relies on an estimate (the total costs), and this estimate cannot be "prudent" (as a conservative estimate of costs leads to a higher estimate of equity). It is in particular incorporat-ing "upcoming" equity and not only already contributed equity (i.e., it the case where the total estimated costs have not yet been fully financed, for instance where the cash payment from the developer into a dedicated SPV has not been made yet but is only planned to be).

Approach 4 focuses on defining the various forms in which obligor-contributed equity can manifest itself. This approach considers real economic values of tangible assets, monetary outlays, and cash provided for specific projects. Approach 4 aims to address issues seen in Approaches 2 and 3 where a proxy is calculated to approximate the equity amount, and it provides clear segregation of equity for specific projects in comparison to Approach 1.

For the considerations mentioned above, it has been chosen to adopt Approach 4.

Q18: What are your views on the proposed threshold for determining the appropriateness of the amount of obligor-contributed equity? Please provide reasoning, taking into account market practices and underwriting standards if you think that an adjustment of the EBA's proposal is necessary.

Q19: Do you agree to use Approach 4 for identifying the appropriate amount of obligor-contributed equity? If not, what alternative options should the EBA consider?

Setting the level of thresholds and their application

The thresholds related to credit risk-reducing conditions have been calibrated such that they exceed the current market practices, in order to justify the significant lowering of the own funds requirements and considering an actual reduction in the risk of these exposures, by applying a risk weight of 100% instead of 150%.

Lastly, it is noted that the risk weight for ADC exposures should be assigned based on a dynamic assessment of the mitigating credit risk requirements, e.g., current level of signed pre-sale contracts or sale contracts. This means in particular that an ADC exposure could be risk weighted at 150% at origination, and later on at 100%, once the number of sale or pre-sale contracts is reached.

Q20: Do you see any rationale for setting different threshold levels?

[4] In the extreme case, one could think of a project with 1 M€, financed at 100% by a bank (i.e., loan of 1M €), but whose expected value upon completion is higher than 1M € (for example 1.5M€), hence creating an equity at risk inexistent at the time where the bank risk weight the loan (i.e. 0.5M equity in the example).

eba European Banking Authority

6. Consideration of the specificities of lending to public housing or not-for-profit entities

20. ADC exposures to public housing or not-for profit entities across the Union that are regulated by law and that exist to serve social purposes and to offer tenants long-term housing should be subject to the treatment referred to in paragraph 21 where both of the following conditions are met:

    a. The intended use of the property is exclusively for lease;

    b. The property being financed is subject to a regulation specifying the eligibility to qualify for social/public housing, including criteria for applicants in relation to their income, their family size, their residency status, and requirements for the construction, including the size of each unit or being barrier-free.

21. For the purposes of Article 126a(2), point (a), of the CRR, institutions should be allowed to apply to the ADC exposures referred to in paragraph 20 either all the requirements related to lease laid down in paragraphs 1 to 19 of these Guidelines or the same requirements with all the following adjustments:

    a. *Substantial* Cash *Deposit:* for the cash deposit in relation to a pre-lease contract to be considered as being substantial, the ratio in paragraph 11 of these Guidelines should be equal to or higher than 100%;

    b. *"Financing ensured in an equivalent manner":* in addition to the alternatives to the cash deposits mentioned in paragraph 12, institutions may consider penalty clauses in the event the prospective tenant withdraws from the pre-lease contract, provided that the penalty agreed is substantial in accordance with point (a) of this paragraph.

    c. *"Significant portion of total contracts":* for the portion of total contracts to be considered as being significant, the percentage referred to in paragraph 13, calculated in accordance with paragraph 16, should be equal to or higher than 75%.

Explanatory Text for consultation purposes

Q21: Do you agree with the adjusted criteria for public housing or not-for-profit entities?

Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

Article 126a(3) of the CRR mandates the EBA to draft guidelines specifying the credit risk-mitigating conditions that ADC exposures should have to be eligible for a 100% preferential risk weight.

As per Article 16(2) of the ESAs regulation (Regulation (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 of the European Parliament and of the Council), any guidelines developed by the ESAs shall be accompanied by an Impact Assessment (IA) annex which analyses 'the potential related costs and benefits' of the guidelines. Such annex shall provide the reader with an overview of the findings as regards the problem identification, the options identified to remove the problem and their potential impacts.

The EBA prepared the IA included in this consultation paper analysing the policy options considered when developing the guidelines. Given the nature of the study, the IA is qualitative in nature.

Problem identification and baseline scenario

Article 4(1), point 79, of the CRR introduces a new definition for ADC exposures, which relate to exposures to corporates or special purpose entities (SPVs) financing any land Acquisition for Development and Construction purposes, or financing development and construction of any residential or commercial immovable property. As of December 2022[5], ADC exposures represented 0.5% of all SA exposures. If the Basel III rules were applied, RWAs to ADC exposures would represent 1.9% of the total SA RWAs. These ADC exposures are considered to be associated with heightened risk and are therefore assigned a 150% risk weight. However, a lower risk weight (100%) might be assigned provided that certain risk-mitigating conditions are met.

These conditions are listed in Article 126a(2) of the CRR, which states that a significant proportion of total contracts must be pre-sale and pre-lease contracts with substantial cash deposit, or sale and lease contracts (or where the financing is ensured in an equivalent manner) and/or an appropriate amount of obligor-contributed equity to the residential property value upon completion. However, those terms and conditions are not sufficiently specified in the CRR. Therefore, Article 126a(3) of the CRR mandates the EBA to specify those terms.

[5] Results based on December 2022 QIS data.

Policy objectives

The guidelines aim at specifying the list of terms identifying the credit risk-mitigating conditions listed under paragraph 2 of Article 126a of the CRR, taking into account the specificities of institutions' lending to public housing or not-for profit entities across the Union:

a) Substantial cash deposits;

b) Financing ensured in an equivalent manner;

c) Appropriate amount of obligor-contributed equity;

d) Significant portion of total contracts.

The general objective of the guidelines is to provide a harmonized framework at European level for the treatment of these exposures, ensuring comparability of own funds requirements and ultimately achieving a level playing field across the EU.

Options considered

When drafting the present guidelines, the EBA considered several policy options under four main areas:

a. The definition of substantial cash deposit: The EBA has analysed which should be the level at which the cash deposit is considered substantial. In order to define the adequate level of substantial cash deposit the following elements have been analysed:

i. How to define the metric to measure the substantial cash deposit:

Option 1: Based on a simple relative ratio.
Option 2: Based on a combination of absolute and relative figures.

ii. The definition of the level of cash deposit:

Option 1: Based on average market practices.
Option 2: Based on risk-based calibration.

iii. The definition of "financed in an equivalent manner":

Option 1: restrictive definition.
Option 2: broader definition.

b. The definition of significant number of contracts: In addition to the conditions that need to be ensured per individual contract, the EBA has analysed different options for the definition of the significant proportion of contracts that need to comply with those conditions:

Option 1: credit facility based: ratio between

a. the sales price of the contracts signed, and

b. the credit facility including the drawn amount and undrawn amount, granted to the borrower to finance the ADC project.

Option 2: Weighted number: ratio between

c. the sales price of the contracts signed, and

d. the sales price of all the potential contracts.

Option 3: Simple number: ratio between

e. the number of contracts signed, and

f. the total number of potential contracts.

Option 4: combination: a combination of option 2 and 3 (for instance, requiring both ratios to be met)

c. To define the threshold for determining when the amount of obligor contributed equity can be considered appropriate, the EBA has explored 4 approaches which are defined in the relevant section of this document.

Assessment of the options and the preferred option(s)

The definition of substantial cash deposit:

a. With regards to the definition of the metric to measure the substantial cash deposit, the EBA opted for the simpler option in order to ease of interpretation, implementation, and effectiveness in establishing a linear relationship between the sale price and the significance of the cash deposit. Therefore, the preferred option is option 1: Based on a simple relative ratio.

b. The EBA has calibrated the level of the cash deposit such that they exceed the current market practices in order to justify the significant lowering of the own funds requirements. Therefore, the preferred option is Option 2, which follows a risk-based calibration approach.

c. To define the term "financed in an equivalent manner" the EBA has opted for a strict definition as opposed to a broader definition as the latter would imply allowing for mechanisms that are less appropriate from a risk perspective. Therefore, the preferred option is Option 1: restrictive definition.

The definition of significant number of contracts: The option of measuring the significant number of contracts using a weighted number based on the sales price (sales price of the contracts signed over sales price of all the potential contracts) or based on a simple number (number of contracts

signed over the total number of potential contracts) are the simpler options and would allow for a simple understanding and calculation of the metric. However, they are not adequate measures to reflect the risk perspective as the risk arises from the amount guaranteed by the bank, in other words, the size of the credit facility. Using a ratio based on the size of the credit facility (sales price of the contracts signed over the credit facility including the drawn amount and undrawn amount, granted to the borrower to finance the ADC project) would allow understanding what would be the means that could be obtained from the sale to repay the credit facility. Therefore, the preferred option is option 1: credit facility based.

To define the threshold for determining when the amount of obligor contributed equity can be considered appropriate, the EBA has explored 4 approaches which are defined in the relevant section of this document. When defining such threshold one point that had to be clarified was the definition of obligor contributed equity among approaches. Under Approach 1, the obligor contributed equity is a direct observation, based on some 'accounting' figures. Under Approach 2, the equity at risk is derived from the difference between residential property's value upon completion, and the total loans provided by the banks for the project. Approach 2 is similar to Approach 3 (explained later), but de facto considers the expected profit from the project once it is sold as equity. This would hence not relate to a form of pre-cash payment engaged by shareholders before the project starts. It can also be noted that, even if the value used for the determination of the property value upon completion is a prudent one (in line with Article 229 (1) CRR), this is unlikely to remove the total expected profits from the project. Approach 3 is trying to enhance Approach 2, by removing the profits. It has however the drawback that it relies on an estimate (the total costs), and this estimate cannot be "prudent" (as a conservative estimate of costs leads to a higher estimate of equity). It is in particular incorporating "upcoming" equity and not only already contributed equity (i.e., it is the case where the total estimated costs have not yet been fully financed, for instance where the cash payment from the developer into a dedicated SPV has not been made yet but is only planned to be). Approach 4 focuses on defining the various forms in which obligor-contributed equity can manifest itself. This approach considers real economic values of tangible assets, monetary outlays, and cash provided for specific projects. Approach 4 aims to address issues seen in Approaches 2 and 3 where a proxy is calculated to approximate the equity amount, and it provides clear segregation of equity for specific projects in comparison to Approach 1. For the considerations mentioned above, it has been chosen to adopt Approach 4.

European Banking Authority

5.2 Overview of questions for consultation

Q1: What is the materiality of the pre-sale and pre-lease contracts that would not have the expected characteristics of legally binding contract?

Q2: Do you agree with the approach proposed to specify the term "substantial cash deposit"?

Q3: Do you consider the 10% ratio to be appropriate for the determination of the ADC exposures benefitting from the lower risk weight?

Q4: Do you have any concerns with applying a single ratio to all ADC projects? Are there any practical options the EBA should consider setting the ratio in a more granular way (e.g., threshold subject to case by case adjustments for either insufficient incentives or for non-enforceability of sufficient incentives but floored at potential market price deterioration over the relevant period) keeping in mind the simplicity of the Standardised Approach and the level playing field across institutions? If yes, please elaborate these options in detail.

Q5: Do you see any drawbacks in adopting the selected option? In case you prefer the alternative option, could you provide the rationale and an example of the calculation and estimation of the net present value of total payments?

Q6: Are there any other practices that should be considered by the EBA?

Q7: Do you have any concerns with applying a single threshold to all ADC projects? Are there any practical options the EBA should consider setting the threshold in a more granular way, keeping in mind the simplicity of the Standardised Approach and the level playing field across institutions? If yes, please elaborate these options in detail.

Q8: Is the relation between the "substantial" cash deposit required for a pre-sale contract and the "substantial" cash deposit required for a pre-lease contract appropriate from your perspective? If, not, please explain why and how this relationship should be adjusted.

Q9: Do you agree with the approach of strict equivalence with respect to cash deposit proposed? Do you deem other forms equivalent to the cash deposit from a risk perspective? If yes, please explain.

Q10: Do you agree in using two different options for pre-sale/sale and pre-lease/lease contracts?

Q11: Do you see any drawbacks related to the proposed options under paragraphs 14 to 16 of these Guidelines?

Q12: What is the materiality of ADC projects with mixed use foreseen? How are these projects structured and whether the proposed options raise any particular issues to be applied in practice?

Q13: Do you agree with the pros and cons on the different methods explained above? Are there any further issues that the EBA should consider?

Q14: Do you agree with the use of method B1 for the aggregation of pre-sale/sale contracts with pre-lease/lease contracts? Can method B1 be applied in practice using option 1 for pre-sale/sale contracts and option 3 for pre-lease/lease contracts? Is it possible to separately identify the amount of the ADC exposure used for financing housing units for sale or for lease ?

Q15: Are there any other combinations of the options and methods considered by the EBA for aggregating pre-sale/sale contracts and/or pre-lease/lease contracts that are preferable?

Q16: Which alternative should be considered for assessing whether, for a project where a mixed use is foreseen, the eligible pre-sale/sale and pre-lease/lease contracts are a significant portion of total contracts?

Q17: Do you foresee any practical impediments to include the verification that the developer only has a residual claim on the property in the underwriting standards? How could this “residual claim” feature be ensured in practice in your jurisdiction (e.g., SPV, pledge, mortgages, …)? Please provide reasoning, taking into account market practices and underwriting standards if you think that an adjustment of the EBA’s definition of obligor contributed equity is necessary.

Q18: What are your views on the proposed threshold for determining the appropriateness of the amount of obligor-contributed equity? Please provide reasoning, taking into account market practices and underwriting standards if you think that an adjustment of the EBA’s proposal is necessary.

Q19: Do you agree to use Approach 4 for identifying the appropriate amount of obligor-contributed equity? If not, what alternative options should the EBA consider?

Q20: Do you see any rationale for setting different threshold levels?

Q21: Do you agree with the adjusted criteria for public housing or not-for-profit entities?